IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

In Re Application of:	)	
	)	
Thomas D. Petite	)	Examiner: F.L. Evans
	)	
Serial No.: 08/825,576	)	Art Unit: 2877
	)	
Filed: March 31, 1997	)	Docket: 81607-1010
	)	
For: Transmitter for Accessing Automated	)	Appeal No. _____
Financial Transaction Machines	)	

AMENDED APPEAL BRIEF UNDER 37 C.F.R. §1.192

Honorable Commissioner of
 Patents and Trademarks
Washington, D.C. 20231

Sir:

This is an appeal from the decision of Examiner F.L. Evans, Group Art Unit 2877,

finally rejecting all of the claims in the present application and making the rejection final.

I. REAL PARTY IN INTEREST

The real party in interest of the instant application is StatSignal Systems, Inc., a

Georgia corporation, having its principal place of business in Atlanta, Georgia.

II. RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

III. STATUS OF THE CLAIMS

Claims 1-25 were canceled during the prosecution of this application. Claims 26-31 are currently pending in the application. The Office Action mailed on February 5, 2003 finally rejected claims 26-28, 30 and 31 under 35 U.S.C. §103(a) as being unpatentable over Petite, et al. (U.S. Patent No. 5,719,931; hereinafter "Petite"). Additionally, the Office Action finally rejected claim 29 under 35 U.S.C. §103(a) as being unpatentable over Tait, et al. (U.S. Patent No. 5,550,358; hereinafter "Tait") in view of Waraksa, et al. (U.S. Patent No. 5,319,364; hereinafter "Waraksa"). The final rejection of claims 26 – 29 is appealed.

IV. STATUS OF AMENDMENTS

On May 5, 2003, Applicant submitted an Amendment and Response to the Final Office Action of February 5, 2003. In an Advisory Action mailed from the U.S. Patent and Trademark Office on May 27, 2003, the Examiner indicated that the pending rejections of claims 26-31 under 35 U.S.C. §103(a) remain as stated in the Final Office Action and that the after-Final Amendment has been entered in the record. Therefore, all amendments submitted should now be entered.

V. SUMMARY OF THE INVENTION

The present invention is generally directed to a system (FIG. 1) for providing remote access to a automated financial transaction machine 10. (page 11, lines 6-14). In accordance with one aspect of the invention, the system includes an automated financial transaction machine 10, and receiving means 18 provided at the automated financial transaction machine for receiving data transmitted via electromagnetic waves 30. (page 8, line 6 - page 9, line 12). Although not necessary for the invention, in a preferred embodiment, the automated financial

transaction machine includes a card reader 14 for receiving and reading magnetically encoded cards (not shown). (page 7, line 15 - page 8, line 5). In this embodiment, the receiving means 18 is operatively and electrically connected to the magnetic card reader 14, so as to allow the system to operate either by access from a remote transmitter or by way of an inserted card. (page 7, line 15 - page 8, line 5).

As shown in FIG. 2, the system of the invention further includes a remote access unit 20 having a memory 42 configured to store user identification data 94 (FIG. 4), including track 1 and track 2 data, and a low-power transmitter 48 adapted to transmit the user identification data to the receiving means. (page 8, line 6 - page 12, line 16). As shown in FIG. 2, as well as depicted functionally in FIG. 3, the remote access unit is manually operated by a transmit button 22, which, when depressed, causes a controller 46 to retrieve user identification data from the memory 42 and transmit the user identification data from the low-power transmitter 48. (page 12, lines 3-14). As shown in FIG. 4, in addition to the user identification data, the transmitter also transmits synchronization bits 92 and a function code 96 that specifies a function that is to be performed. (page 16, lines 5-20).

In some embodiments of the invention, the controller is configured to transmit at least one checksum bit 98 (FIG. 4) for error correction (page 17, lines 1-3).

In some embodiments of the invention, the function code can define automated financial transaction machine access, a test code, an automobile lock, a distress call, *etc.* (page 16, lines 16-20, and page 17, lines 4-9).

Additionally, in some embodiments of the invention, a network can be provided for communicating the user identification data to a remote location (page 17, lines 9-14).

VI. CONCISE STATEMENT OF THE ISSUES PRESENTED FOR REVIEW

The issues in this appeal are whether claims 26 – 28, 30, and 31 are patentable under

35 U.S.C. §103(a) over *Petite*, and whether claim 29 is patentable under 35 U.S.C §103(a)

over *Tait* in view of *Waraksa*.

VII. GROUPING OF THE CLAIMS

The claims can generally be divided into three claim groups, as set out below. For

purposes of the argument set forth in this appeal brief, one claim from each group will be

evaluated and discussed in connection with the prior art. The claim groups are:

(1)   Claim Group I, which comprises claims 26-28;

(2)   Claim Group II, which comprises claim 29; and

(3)   Claim Group III, which comprises claims 30-31.

Reasons that Claim Groups Do Not Stand or Fall Together

Although, in reality, all claims of an application are distinct, Applicant has grouped

the claims of the present application into three distinct claim groups. One claim for each

group has been chosen as the exemplary claim. The reason that these claims for any given

group do not stand or fall with any claims of another group is, ultimately, because they are of

differing scope. This differing scope is more specifically set out below.

In regard to Claim Group I, claim 26 is directed to an automated teller banking system

including a remote access unit for accessing a financial transaction machine. The unit

includes "a first-user depressable button; a memory configured to store user identification

data, including track one and track two data; a low power transmitter; and a controller." The

controller is configured "to control the wireless transmitter to transmit the user identification

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data stored in the memory in direct response to a manual depression of the first-user depressable transmit button, without any verification of user identification data." The unit also includes "data formatting logic configured to format the user identification data, the data formatting logic being disposed to receive input from both the controller and the memory and to generate an output for the wireless transmitter." The system also includes an automated teller banking machine having "a receiver configured to receive wireless transmissions from a remote access unit; a mechanism for reading information from a magnetic strip of a banking card; and data formatting logic disposed to receive an output from both the mechanism for reading information and the receiver." The system defined by the elements recited above sufficiently differentiate the scope of the invention from the claims of the other claim groups such that this claim warrants separate consideration. Therefore, the claims of Claim Group I should properly stand or fall independently of claims of the other claim groups.

In regard to Claim Group II, claim 29 defines a system for providing cardless access to a financial transaction machine. The machine includes "a remote access device having a single user depressable button, a memory configured to store user identification data, including track one and track two data, and a function code, a low power transmitter, and a controller configured to control the transmitter to transmit the track one and track two data and function code in direct response to a manual depression of the user depressable button, without any verification of user identification data." Additionally, the machine includes "an automated financial transaction machine having a magnetic card reader and receiving means for receiving the data and the function code transmitted from the remote access device via electromagnetic waves, and data formatting means responsive to outputs from both the receiving means and card reading means for obtaining user identification information therefrom." A network for communicating user identification data to a remote location also is

included. Accordingly, claim 29 should properly stand or fall independently of claims of the

other claim groups.

In regard to Claim Group III, claim 30 defines a remote access unit including a

plurality of user-depressable buttons; a memory configured to store user identification data; a

low-power wireless transmitter; . . . [and] data formatting logic configured to format a

message for transmission from the wireless transmitter to an automated financial transaction

machine, the data formatting logic configured to format a message comprising a

concatenation of the user identification data and a function code, wherein a unique function

code is associated with each distinct user-depressable button and the automated financial

transaction machine includes logic to verify account information for a user and an account

identified by the user identification information.

VIII. ARGUMENT

A. Rejections Under 35 U.S.C. §103(a)

The Final Office Action has rejected claims 26-28, 30 and 31 under 35 U.S.C. § 103,

as being unpatentable over *Petite* and claim 29 as being unpatentable over *Tait* in view of

Applicant's own disclosed prior art (*Waraksa*). As fully discussed below, it is well

established that a proper rejection of a claim under 35 U.S.C. § 103 requires that the prior art

collectively disclose each element of the claim. See, *e.g.*, *W.L. Gore & Assoc., Inc. v.*

Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1983). Each of the claim groupings will now be

discussed.

B. Discussion of Claim Group I

Claim Group I comprises claims 26-28. Independent claim 26 is as follows:

26. An automated teller banking system, comprising:

a remote access unit having:

a first user-depressable button;

a memory configured to store user identification data, including track one and track two data;

a low-power wireless transmitter;

a controller configured to control the wireless transmitter to transmit the user identification data stored in the memory in direct response to a manual depression of the first user-depressable transmit button, without any verification of user identification data;

data formatting logic c onfigured t o f ormat t he u ser i dentification *data, the data formatting logic being disposed to receive input from both the controller and the memory and to generate an output for the wireless transmitter;*

an automated teller banking machine having:

a receiver configured to receive wireless transmissions from a remote access unit;

a m echanism f or r eading information from a magnetic strip of a banking card;

data formatting logic disposed to receive an output from both the mechanism for reading information and the receiver; and

logic to verify account information for a user and an account identified by the user identification information; and

a network coupled to the automated teller banking machine for communicating account information, user information, and other information with a remotely-located database.

(Emphasis added)

The A pplicant r espectfully s ubmits t hat *Petite* f ails t o d isclose, t each, or suggest at least the above-emphasized elements. Particularly, *Petite* fails to disclose, teach, or suggest the elements of: a low-power wireless transmitter; data formatting logic configured to format the user information data, the data formatting logic being disposed to receive input from both the controller and the memory and to generate an output for the wireless transmitter; and data formatting logic disposed to receive an output from both the mechanism for reading information and the receiver.

Column 3, lines 44-46 of *Petite* read, "[T]he transmitter 230 transmits an FSK tone modulation signal 115 (see FIG. 1), similar to that of a cellular phone, which preferably

reaches **a minimum of 150 feet away.**" The Applicant respectfully submits that *Petite* does

not disclose, teach, or suggest use of a low-power transmitter.

Page 10, lines 13-18 of the presently pending application further describe why a low-

power transmitter is utilized. Page 10, lines 13-18 read:

> Preferably, the transmitter 20 is an extremely low power transmitter, so that a user will have to be in close proximity, (*e.g.*, several feet) to the receiver 18 of an AFTM 10 in order to use the transmitter. This would help alleviate problems which may otherwise occur if a user approaching an AFTM 10 is circumvented by a second, more distantly located user who depresses his transmit button. This extremely low-power operation helps to prevent the unlawful interception of the electromagnetic signals.

As mentioned above, proximity of the user to the receiver is important not only for

convenience purposes, but also for security purposes.

In addition, *Petite* does not disclose, teach, or suggest data formatting logic configured

to format the user information data, the data formatting logic being disposed to receive input

from both the controller and the memory and to generate an output for the wireless

transmitter. In fact, *Petite* simply transmits a signal after pressing of the two or more buttons

located on a portable transmitter device. As an example, column 3, lines 1 – 5 of *Petite* read:

> ...The system 100 includes a portable transmitter device 120, a transceiver 130, and a remote receiver 140. The portable transmitter device 120 transmits a signal 115 containing data specific to an individual to the transceiver 130.

Further, column 3, lines 34-37 of *Petite* read:

> When a top button 210 and bottom button 220 are then pressed simultaneously, the transmitter is activated and a signal containing the type of emergency condition is sent to the transceiver 130 (see FIG. 1).

Applicant respectfully submits that *Petite* fails to disclose, teach, or suggest the

feature of "*data formatting logic disposed to receive an output from both the mechanism*

for reading information (from a magnetic strip of a banking card) *and the receiver* (configured to receive wireless information from a remote access unit)." The Office Action argues that *Petite* discloses "an automatic teller banking system." Applicant respectfully disagrees with this characterization.

Petite discloses a personal security system in which a portable transmitter may be carried or worn by an individual and activated by the individual in need of assistance to thereby transmit data specifically relating to the individual. The data is received by a transceiver located near the individual and transmitted with additional data to a remote receiver. The remote receiver forwards information relating to the data to emergency personnel who use the information to determine the location of the individual, as well as particulars relating to the individual, such as a name and a physical description.

Petite discloses a number of situations in which the personal security system may be used to improve security. In this regard, *Petite* specifies that the receiver that communicates with the portable transmitter may be located "anywhere in the proximate area to where the individual activates the personal transmitter." Column 2, lines 21 – 23. In one particular example, *Petite* specifies that the receiver may located in an ATM. Applicant respectfully submits, however, that *Petite* does not disclose an automatic teller banking system having *data formatting logic disposed to receive an output from both the mechanism for reading information* (from a magnetic strip of a banking card) *and the receiver* (configured to receive wireless information from a remote access unit). In fact, *Petite* does not disclose, teach, or suggest anything about the ATM other than locating the receiver in the ATM for purposes of improving security at the ATM. The ATM is used merely as a mechanism for forwarding the data from the portable transmitter to a remote transceiver. Unlike the claimed invention, *Petite* does not disclose, teach, or suggest configuring the ATM with the *data formatting*

logic. Furthermore, *Petite* does not disclose, teach, or suggest the feature of configuring an automated teller banking machine with *"logic to verify account information for a user and an account identified by the user identification information"* received from the remote access device.

For at least these reasons, Applicant respectfully submits that independent claim 26 is patentable over *Petite*. Accordingly, Applicant respectfully requests that this rejection be withdrawn and claim 26 be allowed. Claims 27 and 28, each of which depend on claim 26, are also patentable over *Petite* for at least the reason that they include all of the limitations of the base claim. Therefore, Applicant respectfully requests that claims 27 and 28 also be allowed.

C. Discussion of Claim Group II

Claim Group II comprises independent claim 29. Independent claim 29 is as follows:

> 29. A system for providing cardless access to a financial transaction machine, comprising:
> *a remote access device* having a single user-depressable button, a memory configured to store user identification data, including track one and track two data and a function code, a low-power transmitter, and a controller configured to control the transmitter *to transmit* the track one and track two data and *function code in direct response to a manual depression of the user-depressable transmit button*, without any verification of user identification data;
> an automated financial transaction machine having a magnetic card reader and receiving means for receiving the data and the function code transmitted from the remote access device via electromagnetic waves, and data formatting means responsive to outputs from both the receiving means and card reading means for obtaining user identification information therefrom; and
> a network for communicating user identification data and account information with a remote location,
> *wherein the function code defines a function for automatically accessing the automated financial transaction machine.*

(Emphasis Added)

The Applicant respectfully submits that *Tait* in view of *Waraksa* fails to disclose, teach, or suggest at least the above-emphasized element. Particularly, *Tait* in view of *Waraksa* fails to disclose, teach, or suggest the element of the remote access device transmitting a function code in direct response to a manual depression of the user-depressible transmit button, wherein the function code defines a function for automatically accessing the automated financial transaction machine.

In rejecting claim 29, the Office Action reads:

> Claim 29 is rejected under 35 U.S.C. §103(a) as being unpatentable over Tait et al (US 5,550,358) in view of Waraksa et al (US 5,319,364), both of record.
>
> Tait et al disclose (1) a remote access device for accessing a financial transaction machine comprising a single user-depressible button, a memory for storing user identification data (including track 1 and track 2 data), a transmitter and a controller; (2) an automatic financial transaction machine with a magnetic card reader, and receiving means for receiving data transmitted from the remote access device via electromagnetic waves, and data formatting means responsive to outputs from the receiving means and the card reader; and (3) a network for communicating user identification data and account information. Applicant's attention is directed to the embodiment of the invention in Fig. 5 and the text pertaining thereto in column 6. The embodiment of Fig. 5 does not require prior verification of user identification data. The user identification data is transmitted in response to the depression of the single user-depressible button. Tait et al fails to specifically disclose the transmission of a function code along with user identification data in response to the depression of the user button.
>
> Waraksa et al disclose a remote access unit in which a transmitter transmits a function code along with an identification code. Applicant's attention is directed to the text under the heading "ERROR CORRECTION CODE" in columns 5-7 of Waraksa et al.

Tait appears to disclose a remote wireless transaction system as having a hand-held transmitter that contains a digital memory device that stores unique user information. The transmitter apparently has a keypad to allow a user to key-in a unique PIN number that is stored in the transmitter. If the keyed-in PIN number is the same as the PIN number stored in the transmitter, the unique user information is transmitted to a receiver that is coupled to a

conventional card swipe machine. The receiver on the card swipe machine has a display panel that displays contents of an identity part of the user information. A vendor then confirms the user's identity and allows a transaction associated with the transmission to proceed. Apparently, even if the transmitter does not have a keypad, the vendor still confirms the user's identity.

Alternatively, as has been recited by claim 29 of the presently pending application, the low-power transmitter located within the remote access device transmits a function code in direct response to manual depression of a user-depressible transmit button, wherein the function code defines a function for automatically accessing the automated financial transaction machine. Therefore, due to the function code, the system as recited by claim 29, does not require assistance or verification by a vendor or any other party, as is disclosed by *Tait*. Instead, automatic access to the automated financial transaction machine is provided. Of course, as is also recited by claim 29, the received data comprising the track one and track two data is also received by the receiver.

Waraksa appears to disclose an automotive keyless entry system that is adapted to automatically unlock a vehicle as an operator approaches the vehicle. Apparently, upon receipt of a radio frequency signal from an antenna, a receiver/controller is adapted to process the coded radio frequency signal and evaluate serial data contained therein. If the signal is determined to be valid, the receiver/controller automatically unlocks a driver's-side vehicle door. In addition, *Waraksa* appears to disclose that the beacon may be provided with function switches which, when depressed by an operator, change function code contained in the radio frequency signal, thereby directing the receiver/controller to perform other functions on the vehicle. The function code is a 4-bit function code that provides up to sixteen different function codes to selectively control activation of the additional vehicle functions.

Waraksa does not disclose, teach, or suggest the element of the remote access device transmitting a function code in direct response to a manual depression of the user-depressible transmit button, wherein the function code defines a function for automatically accessing the automated financial transaction machine. The Applicant respectfully submits that the function code disclosed by *Waraksa* is not the same as the function code recited in claim 29 of the presently pending application. As mentioned above, the different function code in *Waraksa* controls activation of vehicle functions, and does not provide for automatic accessing of an automated financial transaction machine. The "ERROR CORRECTION CODE" disclosed in *Waraksa* is a coding scheme used to improve the communication between the transmitter and receiver. This coding scheme is used to allow the system to properly receive a coded transmission which may have been partially altered by noise to improve reception performance and response time and reduce false detections. Column 5, lines 42 - 51. Applicant respectfully submits that this coding scheme has nothing to do with the function of ***"automatically accessing the automated financial transaction machine."*** Since, neither Tait, nor Waraksa, discloses, teaches, or suggests the above-emphasized element, Tait in view of Waraksa does not render claim 29 unpatentable and claim 29 should be allowed.

Further, and as a separate and independent basis for the patentability of claim 29, the Office Action fails to cite an appropriate suggestion, teaching, or motivation to combine the alleged teachings of *Tait* and *Waraksa*. It is well-settled law that in order to properly support an obviousness rejection under 35 U.S.C. §103, there must have been some teaching in the prior art to suggest to one skilled in the art that the claimed invention would have been obvious. *W. L. Gore & Associates, Inc. v. Garlock Thomas, Inc.*, 721 F.2d 1540, 1551 (Fed. Cir. 1983). More significantly,

> "The consistent criteria for determination of obviousness is whether the prior art
> would have suggested to one of ordinary skill in the art that this [invention]

should be carried out and would have a reasonable likelihood of success, viewed in light of the prior art. ..." <u>Both the suggestion and the expectation of success must be founded in the prior art, not in the applicant's disclosure...</u> In determining whether such a suggestion can fairly be gleaned from the prior art, the full field of the invention must be considered; for the person of ordinary skill in the art is charged with knowledge of the entire body of technological literature, including that which might lead away from the claimed invention."

(Emphasis added.) <u>*In re Dow Chemical Company*</u>, 837 F.2d 469, 473 (Fed. Cir. 1988).

In this regard, the Applicant notes that there must not only be a suggestion to combine the functional or operational aspects of the combined references, but that the Federal Circuit also <u>requires the prior art to suggest both the combination of elements and the structure resulting from the combination.</u> <u>*Stiftung v. Renishaw PLC*</u>, 945 Fed.2d 1173 (Fed. Cir. 1991). Therefore, in order to sustain an obviousness rejection based upon a combination of any two or more prior art references, the prior art must properly suggest the desirability of providing a remote access device that transmits a function code in direct response to a manual depression of a user-depressible transmit button, wherein the function code defines a function for automatically accessing an automated financial transaction machine, as claimed by the Applicant. "Particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed." <u>*In re Kotzab*</u>, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000).

"A showing of a suggestion, teaching, or motivation to combine the prior art references is an essential component of an obviousness holding." <u>*Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*</u>, 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed.Cir.2000)) *(quoting* <u>*C.R. Bard, Inc., v. M3 Systems, Inc.*</u>, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed.Cir.1998)); The Federal Circuit has made it clear "that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to

combine prior art references."); *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed.Cir.1999). Thus, there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant." *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed.Cir.1998).

As has been described in detail above, *Tait* is directed to a remote wireless transaction system, while *Waraksa* is directed to a passive keyless entry system for an automobile. The Applicant respectfully submits that neither *Tait*, nor *Waraksa*, provides a motivation to combine the teachings of these references. For the above reason, the Applicant respectfully requests that claim 29 be allowed.

D. Discussion of Claim Group III

Claim Group III comprises claims 30-31. Independent claim 30 is as follows:

> 30. A remote access unit comprising:
> a plurality of user-depressable buttons;
> a memory configured to store user identification data;
> *a low-power wireless transmitter;*
> control logic configured to control the wireless transmitter to transmit the user identification data stored in the memory in direct response to a manual depression of a user-depressable button; and
> *data formatting logic configured to format a message for transmission from the wireless transmitter to an automated financial transaction machine, the data formatting logic configured to format a message comprising a concatenation of the user identification data and a function code, wherein a unique function code is associated with each distinct user-depressable button and the automated financial transaction machine includes logic to verify account information for a user and an account identified by the user identification information.*

(Emphasis Added)

The Applicant respectfully submits that *Petite* fails to disclose, teach, or suggest at least the above-emphasized elements. More specifically, column 3, lines 44-46 of *Petite* read, "[T]he transmitter 230 transmits an FSK tone modulation signal 115 (see FIG. 1), similar to that of a cellular phone, which preferably reaches **a minimum of 150 feet away**." The

Applicants respectfully submit that *Petite* does not disclose, teach, or suggest use of a low-power transmitter.

Page 10, lines 13-18 of the presently pending application further describe why a low-power transmitter is used. Page 10, lines 13-18 read:

> Preferably, the transmitter 20 is an extremely low power transmitter, so that a user will have to be in close proximity, (*e.g.*, several feet) to the receiver 18 of an AFTM 10 in order to use the transmitter. This would help alleviate problems which may otherwise occur if a user approaching an AFTM 10 is circumvented by a second, more distantly located user who depresses his transmit button. This extremely low-power operation helps to prevent the unlawful interception of the electromagnetic signals.

As mentioned above, proximity of the user to the receiver is important not only for convenience purposes, but also for security purposes.

As well, Applicant respectfully submits that *Petite* fails to disclose, teach, or suggest a remote access unit having "*data formatting logic configured to format a message for transmission from the wireless transmitter to an automated financial transaction machine, the data formatting logic configured to format a message comprising a concatenation of the user identification data and a function code, wherein a unique function code is associated with each distinct user-depressable button and the automated financial transaction machine includes logic to verify account information for a user and an account identified by the user identification information.*"

As previously noted, *Petite* discloses a personal security system in which a portable transmitter may be carried or worn by an individual and activated by the individual in need of assistance to thereby transmit data specifically relating to the individual. The data is received by a transceiver located near the individual and transmitted with additional data to a remote receiver. The remote receiver forwards information relating to the data to emergency

personnel who use the information to determine the location of the individual, as well as particulars relating to the individual, such as a name and a physical description.

Petite discloses a number of situations in which the personal security system may be used to improve security. *Petite* specifies that the receiver that communicates with the portable transmitter may be located "anywhere in the proximate area to where the individual activates the personal transmitter." Column 2, lines 21 – 23. In one particular example, *Petite* specifies that the receiver may located in an ATM. Applicant respectfully submits, however, that *Petite* does not disclose a remote access unit that formats a message for transmission from the transmitter to an automated financial transaction machine that verifies account information for a user of the remote access unit and an account identified by the user identification information transmitted by the remote access unit.

For at least these reasons, Applicant respectfully submits that independent claim 30 is patentable over *Petite*. Accordingly, Applicant respectfully requests that this rejection be withdrawn and claim 30 be allowed. Claim 31, which depends on claim 30, is also patentable over *Petite* for at least the reason that it includes all of the limitations of the base claim. Therefore, Applicant respectfully requests that claim 31 also be allowed.

IX.   <u>CONCLUSION</u>

Based upon the foregoing discussion, Appellant respectfully requests that the Examiner's final rejection of claims 26-31 be overruled and withdrawn by the Board, and that the application be allowed to issue as a patent with all pending claims 26-31.

Respectfully submitted,

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X. <u>APPENDIX</u>

Claims

26.   An automated teller banking system, comprising:

a remote access unit having:

a first user-depressable button;

a memory configured to store user identification data, including track one and track two data;

a low-power wireless transmitter;

a controller configured to control the wireless transmitter to transmit the user identification data stored in the memory in direct response to a manual depression of the first user-depressable transmit button, without any verification of user identification data;

data formatting logic configured to format the user identification data, the data formatting logic being disposed to receive input from both the controller and the memory and to generate an output for the wireless transmitter;

an automated teller banking machine having:

a receiver configured to receive wireless transmissions from a remote access unit;

a mechanism for reading information from a magnetic strip of a banking card;

data formatting logic disposed to receive an output from both the mechanism for reading information and the receiver; and

logic to verify account information for a user and an account identified by the user identification information; and

a network coupled to the automated teller banking machine for communicating

account information, user information, and other information with a remotely-located

database.

27.   The system as defined by claim 26, wherein the remote access device is further

configured to transmit a function code to the automated teller banking machine and wherein

the data formatting logic of the automated teller banking machine is configured to identify a

unique function associate with the received function code.

28.   The system as defined by claim 26, further including additional user-

depressable buttons, wherein the remote access unit is further configured to transmit a

function code that is unique to each user-depressable button, wherein a message transmitted

by the remote access unit includes the user-identification information concatenated with the

function code, wherein the unique function codes define functions selected from the group

consisting of: automatic financial transaction machine access, a test code, an automobile

lock, and a distress call.

29.   A system for providing cardless access to a financial transaction

machine, comprising:

a remote access device having a single user-depressable button, a memory

configured to store user identification data, including track one and track two data and

a function code, a low-power transmitter, and a controller configured to control the

transmitter to transmit the track one and track two data and function code in direct

response to a manual depression of the user-depressable transmit button, without any

verification of user identification data;

an automated financial transaction machine having a magnetic card reader and

receiving means for receiving the data and the function code transmitted from the

remote access device via electromagnetic waves, and data formatting means

responsive to outputs from both the receiving means and card reading means for

obtaining user identification information therefrom; and

a network for communicating user identification data and account information

with a remote location,

wherein the function code defines a function for automatically accessing the

automated financial transaction machine.

30.   A remote access unit comprising:

a plurality of user-depressable buttons;

a memory configured to store user identification data;

a low-power wireless transmitter;

control logic configured to control the wireless transmitter to transmit the user

identification data stored in the memory in direct response to a manual depression of a user-

depressable button; and

data formatting logic configured to format a message for transmission from the

wireless transmitter to an automated financial transaction machine, the data formatting logic

configured to format a message comprising a concatenation of the user identification data and

a function code, wherein a unique function code is associated with each distinct user-

depressable button and the automated financial transaction machine includes logic to verify

account information for a user and an account identified by the user identification

information.

31.   The remote access unit as defined by claim 30, wherein the unique function codes define functions selected from the group consisting of: automatic financial transaction machine access, a test code, an automobile lock, and a distress call.